

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK, by
LETITIA JAMES, Attorney General of the State of
New York,

Plaintiff,

-against-

Case No. 22-cv-06124 (JMF)

Arm or Ally, LLC; Blackhawk
Manufacturing Group, Inc., a/k/a 80
Percent Arms, Inc. or 80 Percent Arms;
Salvo Technologies, Inc., a/k/a 80P
Builder or 80P Freedom Co.; Brownells,
Inc., a/k/a Brownells or Bob Brownell's;
GS Performance, LLC, a/k/a Glockstore or
GSPC; Indie Guns, LLC; KM Tactical;
Primary Arms, LLC; Rainier Arms, LLC; and
Rock Slide USA, LLC,

ORDER

Defendants.

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JESSE M. FURMAN, UNITED STATES DISTRICT JUDGE:

WHEREAS, on June 29, 2022, the People of the State of New York, by Letitia James, Attorney General of the State of New York (the "State"), commenced this action in New York State Supreme Court (ECF No. 1-1) against ten defendants, including defendant Indie Guns, LLC ("Indie Guns"), which was subsequently removed to this Court on July 19, 2022 (ECF No. 1);

WHEREAS, on December 8, 2022, this Court denied the State's motion to remand (ECF No. 42), finding that it had federal question jurisdiction over this action (ECF No. 58);

WHEREAS, on January 24, 2023, the Court stayed discovery during the pendency of Defendants' motions to dismiss without prejudice to an application by the State for limited

discovery (ECF No. 117);

WHEREAS, on February 8, 2023, the State moved, in part, to seek leave to serve limited discovery requests on and specific to Indie Guns to address Indie Guns' ongoing illegal conduct and public admissions made by Lawrence Destefano, the principal member of Indie Guns, that Indie Guns is destroying customer data and changing its business practices to avoid the creation of obtainable records (ECF No. 126);

WHEREAS, on February 15, 2023, the Court granted the portion of the State's motion for leave seeking to serve limited discovery requests on and specific to Indie Guns (ECF No. 132);

WHEREAS, on February 16, 2023, counsel for the State served the limited discovery requests on counsel for Indie Guns;

WHEREAS, on March 6, 2023, the Court granted counsel for Indie Guns' motion to withdraw (ECF No. 151);

WHEREAS, on March 23 and 30, 2023, the State advised the Court that Indie Guns failed to timely respond to Court-ordered discovery (ECF Nos. 158 and 168) and sought the entry of a preservation order given Indie Guns' public admissions that it is actively destroying evidence (ECF No. 168);

THEREFORE, pursuant to Federal Rules of Civil Procedure 16, 26, and 37 and the Court's inherent authority, **IT IS HEREBY ORDERED THAT:**

1. Effective immediately, Indie Guns shall preserve and retain any and all documents and other materials in its possession, custody, or control (or in the possession, custody, or control of any employee, principal, or other individual or entity acting on its behalf) regardless of the location of the documents and other materials potentially relevant to this

litigation, **including but not limited to:**

- a. All documents concerning each instance in which Indie Guns shipped an unfinished frame or receiver to a customer in New York State, such as invoices, packing or shipping records, proofs of delivery, and payment receipts or records from June 29, 2016, onward;
- b. All communications between Defendants dating from June 29, 2022, onward concerning the retention and/or destruction of sales, customer, or shipping data;
- c. All documents pertaining to phone number (407) 375-2333, including all records of all calls and/or text messages received or sent dating from June 29, 2022, onward and which relate to any claim or defense in this case;
- d. A complete imaging of any devices (any phone, tablet, or other device) that operate by connection to a network using the phone number (407) 375-2333;
- e. All communications, dating from June 29, 2022, onward, between any customer in New York State and Indie Guns (or any employee, principal, or other individual or entity acting on its behalf) concerning the sale of unfinished frames or receivers, including but not limited to any communications made by private encrypted messaging services (including but not limited to) Telegram, or via social media (including but not limited to Instagram); and
- f. All documents and communications pertaining to Lawrence Destefano's public claims to have destroyed or erased any documents or data that are subject to disclosure under Fed. R. Civ. P. 26 dating from June 29, 2022, onward.

2. Any software, policies, or protocols currently used by Indie Guns or any employee or related persons that provide for the automatic deletion of electronically stored materials or documents shall be immediately disabled.

3. For all such materials or documents that have been deleted but remain retrievable from archives or backup sources as of the date of this Order, Indie Guns shall immediately retrieve and restore these documents, which are subject to the preservation requirements of Paragraph 1.

4. For all such materials or documents that are known to be fully or partially destroyed as of the date of this Order, such that they are not retrievable from archives or backup

sources as of the date of this Order (“Destroyed Document”), within **twenty-one (21) days** of the date of this Order, Indie Guns shall serve a log on the State enumerating each such Destroyed Document that includes:

- a. The nature of the Destroyed Document (i.e., an email, voicemail, invoice, cancelled check);
 - b. The number of attachments, if any, relating to the Destroyed Document;
 - c. The date the Destroyed Document was created;
 - d. The author, recipient(s), subject, and any relevant dates relating to the Destroyed Document;
 - e. The identities of any third parties who may have a copy of the Destroyed Document;
 - f. The date the Destroyed Document was destroyed; and
 - g. The manner in which the Destroyed Document was destroyed.
5. Nothing in this Order or any action or agreement of a party under this Order limits the Court’s power to make any orders that may be appropriate with respect to the use and/or disclosure of any documents.

6. Nothing in this Order shall abridge the right of any person to seek judicial review or to pursue other appropriate judicial action to seek a modification or amendment of this Order or another appropriate discovery order.

7. All obligations in this Order are to be construed as continuing and shall remain in effect until the conclusion of this litigation or until such further order of this Court.

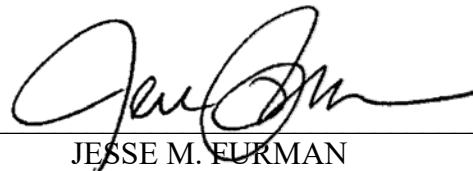
8. In the event Indie Guns, or any person acting on Indie Guns’ behalf, violates or threatens to violate the terms of this Order, the State may immediately apply to obtain relief against Indie Guns and/or any person acting on Indie Guns’ behalf who is violating or threatening to violate any of the terms of this Order.

9. This Order shall not be construed as waiving any right to assert a claim of privilege, relevance, or other grounds for not producing material called for in discovery, and access to such material shall be only as provided for by separate agreement or by the Court.

10. Any failure to comply with the terms of this Order shall constitute contempt of court and may subject Indie Guns to monetary or other penalties.

SO ORDERED.

Dated: April 3, 2023
New York, New York



JESSE M. FURMAN
United States District Judge